

## REMARKS

### A. Restriction Request

Restriction to one of the following inventions was requested by the Examiner:

- I. Claims 1-5, 20-21, 28-36, allegedly drawn to an interactive media guide with a system operator interface, classified in class 725, subclass 93.
- II. Claims 6-15, 22, allegedly drawn to a method for an interactive media guide with promotional/preview functionality, classified in class 725, subclass 8.
- III. Claims 16-19, allegedly drawn to establishing a reservation for an interactive media guide that is operable to facilitate programming reservations, classified in class 725, subclass 58.
- IV. Claims 23-27, allegedly drawn to an interactive media guide which serves as a screen saver utility, classified in class 345, subclass 867.
- V. Claims 37-42, allegedly drawn to a method for providing VOD control options and branding content, classified in class 725, subclass 87.

Applicants, which had provisionally elected the invention corresponding to claims 6-15 and 22, hereby re-affirm this election as requested by the Examiner.

### B. Scope of Provisional Application

The Examiner has suggested that the information disclosed in provisional patent application number 60/138,756 only comprises the information of pages numbered 1-5. The remainder of the provisional application was allegedly not properly incorporated into the provisional application such that the current application would receive the benefit of an earlier filing date.

Applicants respectfully maintain that the provisional patent application includes the contents of all the pages submitted by Applicants as part of the provisional patent application, including all 162 pages of specification that were submitted, as indicated by Applicants in the Provisional Application For Patent Cover Sheet dated June 11, 1999. Applicants also respectfully maintain that portions of the specification that are physically included as part of an application need not be incorporated by reference.

### C. Request For Information By Examiner

1. The Examiner has requested information regarding the inventorship of the claimed material. The inventors of the currently claimed material remain as identified by the Patent Application Declaration filed with the current patent application (Dean Jerding, Robert Banker, Arturo Rodriguez, Valerie Gutknecht, and Shashi Goel).

2. The Examiner has requested that Applicants provide clarification on the record as to whether any of the documents included in the provisional application constitute prior art with regard to the current application. These documents include:

- Client User Interface Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal, revision 1.10 of 8/31/98;
- VOD Title Catalog Format;
- VOD Client Software Design Specification, version 0.5 of 4/23/98;
- Video-On-Demand Architecture Specification for the SARA VOD Application Server Interface;
- The "AIS VOD Component" Overview;
- The "Generic VOD Architecture" Overview;
- System Architecture Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal, revision 1.01r of March 1999;
- System Architecture Specification for Service Group Determination of Scientific Atlanta Digital Broadband Delivery System, revision 1.00 of February 1999;
- System Architecture Specification Digital Broadband Delivery System User-to-

Network Configuration, revision 1.00 of June 1999; and

- System Architecture Specification Digital Broadband Delivery System Service

Interactive Sessions, revision 1.00 of June 1999;

Applicants believe that the provisional application, which comprises the above referenced documents, does not constitute prior art with regard to the current application. Furthermore, Applicants maintain that the above-referenced documents are not printed publications that describe the claimed aspects of the invention prior to the filing of the instant application, as alleged by the Examiner.

3. The Examiner has requested information regarding the "Client User Interface Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal, revision 1.10 of 8/31/98" document drafted by Shashi Goel ("8/31/98 Document") that was part of U.S. Provisional Application having serial number 60/138,756 filed June 11, 1999. The Examiner alleges that the 8/31/98 Document discloses that the claimed invention was "to be deployed for demonstration in the field, in September 1998" (Page 3, Section 1.2).

The 8/31/98 Document discloses "This design is for the User Interface for the Phase 1 VOD Client application to be deployed for demonstration in the field, in September 1998." Applicants do not believe that there was such a demonstration prior to the effective filing date of the current application (June 11, 1999).

4. The Examiner has requested information regarding the "System Architecture Specification for Video-On-Demand Application Development on the Explorer 2000™ Digital Home Communications Terminal, revision 1.01 of March 1999" document drafted by Timothy Addington ("March 1999 Document"). The Examiner points out that the March 1999 Document discloses that the "S-A proprietary notice" has been removed from the document and that it was "released to Pegasus VOD Design team" (Page ii, Revision History).

If in fact the priority notice was effectively removed as indicated in the document, then it would signify that the March 1999 Document would no longer have been required to be kept

confidential. Furthermore, if the March 1999 Document was disclosed to the Pegasus design team, then the disclosure would have been covered by a non-disclosure agreement whereby the Pegasus design team was contractually obligated to keep such information confidential. In addition, the release date indicated in the March 1999 document is less than one year prior to the effective filing date of the current application (June 11, 1999). Also note that the March 1999 Document, which discusses DSM-CC signaling architecture, does not disclose the claimed invention. Therefore, the prior art status of the March 1999 document is not relevant since Applicants do not have any claims that specifically claim DSM-CC signaling.

If the above comments regarding the provisional application have not addressed the Examiner's concerns, then Applicants are willing to provide additional comments or information requested by the Examiner.

#### D. Objections to Figures

Applicants have amended FIGS. 4C, 4D, 4E, 4H, 7, and 19A responsive to the Examiner's objections, as indicated above. FIG. 5 has not been amended to excluded numerals 193 and 195 since such numerals may be found on line 14 of page 14 of the current application. FIG. 4E was not amended since the specification has been amended to include the numerals 98 and 89.

#### E. Objections to the Disclosure

The paragraphs starting on lines 21 and 29 of page 4, and on lines 23 and 32 of page 9 have been amended as indicated above responsive to the Examiner's suggestions.

#### F. Cancelled Claims

Claims 1-42 have been cancelled without prejudice, waiver, or disclaimer. Applicants are not expressly addressing the validity of assertions made by the Examiner regarding claims 1-42 since the validity of such assertions are not relevant to the allowance of the currently pending claims 43-71. Therefore, Applicants should not be presumed to agree with any statements made by the Examiner regarding claims 1-42 unless otherwise specifically indicated by Applicants.

#### G. Official Notices in Office Action

The Examiner has taken Official Notices that "it is notoriously well known in the art for "promotional channels" to be associated with a "particular theme or genre" and that "it is notoriously well known for video programming such as movies to contain commercials or "sequences of trailers of other media in some way associated with" the movie."

According to MPEP 2144.03, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known." MPEP 2144.03 also states that "If such notice is taken, the basis for such reasoning must be set forth explicitly. The Examiner must provide specific factual findings predicated on sound technical and scientific reasoning to support his or her conclusion of common knowledge."

Applicants respectfully traverse the Examiner's Official Notices for at least the following reasons:

1. The facts sought to be established by the Official Notices are not capable of "instant and unquestionable demonstration as being well-known."
2. The bases for the Official Notices were not set forth explicitly.
3. The Examiner did not provide specific factual findings predicated on sound technical and scientific reasoning to the support the conclusions of common knowledge.
4. The Examiner failed to cite documentary support for the Official Notices.

#### H. New Claims

Claim 43-71 have been newly added. The newly added claims 43-71 are adequately supported by the specification. Consideration of new claims 43-71 is respectfully requested. The references cited by the Examiner do not disclose, teach, or suggest the combination of any of the newly added claims 43-71.

#### Claims 43-50

Claims 43-50 are allowable for at least the reason that none of the cited references teach, suggest, or disclose "wherein the first promotional media presentation is provided via a video-on-demand (VOD) session."

#### Claims 51-56

Claims 51-56 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “providing a promotional media presentation responsive to the first user input.”

#### Claims 57-65

Claims 57-65 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “ wherein the promotional media presentation is provided via a video-on-demand session.”

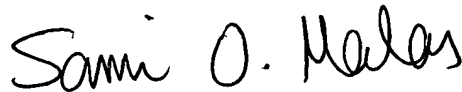
#### Claims 66-71

Claims 66-71 are allowable for at least the reason that none of the cited references teach, suggest, or disclose “a processor programmed to enable the DHCT to: ... provide a promotional media presentation responsive to the DHCT receiving the first user input.”

**CONCLUSION**

Applicants respectfully maintain that the currently pending claims 43-71 are in condition for allowance. Should the Examiner have any comments or suggestions that would place the subject patent application in better condition for allowance, he is respectfully requested to telephone the undersigned attorney at (770) 933-9500.

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& RISLEY, L.L.P.**



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